REMARKS

In the amendments set forth below, Applicant has added dependent Claims 38-153 to depend from allowable independent Claims 1, 7, 17, 22 and 23, and Applicant has amended Claims 7, 9, 10, 11, 19, 22, 23 and 24 to correct informalities.

Applicant respectfully submits that the amendments to the claims presented herein are necessary to more clearly define Applicant's invention and to afford Applicant proper protection of the invention. Among other things, even though the amendments to the claims do not affect patentability or allowability of the claims, in an excess of caution Applicant has added a further subset of the allowable independent claims in the form of dependent claims that cover additional aspects of patentability which further distinguish Applicant's invention over the prior art. Applicant respectfully submits that all of the prior art of which he is aware has been made of record in this application and that the Examiner(s) have reviewed it and indicated allowance of the claims. In addition, Applicant respectfully notes that claims depending from allowable claims are themselves likewise allowable. As set forth in MPEP 821.04(a):

> "Claims that require all the limitations of an allowable claim will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104... An amendment presenting additional claims that depend from or otherwise require all the limitations of an allowable claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier."

Accordingly, these other dependent claims presented herein are allowable over the prior art of which Applicant is aware.

Applicant respectfully submits that the amendments to the claims presented herein were not presented earlier for several reasons. Among other things, Applicant was attempting to

reduce the examination burden on the Examiner and to move towards allowance of the pending *independent* claims. In addition, although Applicant already had paid for a significantly large number of additional claims, Applicant desired to postpone payment of the even further fees necessitated by the present "clerical" addition of other dependent claims. In that regard, Applicant notes that, with this amendment, Applicant is paying yet a FURTHER fee of almost $1,400 for those additional claims. Thus, this approach significantly reduced the total number of claims in the application during the main prosecution of this application.

Even more to the point, during prosecution of the application, Applicant and the Examiner agreed that, once the independent claims were allowed, Applicant would present for allowance additional dependent claims (as Applicant is doing with the present amendment).

In addition, Applicant respectfully submits that the new claims presented herein do not add new matter as they are sufficiently supported in Applicant's original-filed specification. Among other things, Applicant has added dependent Claims 38-153 to depend from allowable Claims 1, 7, 17, 22 and 23 and respectfully submits that this does not constitute the improper submission of new matter because the amendment language is sufficiently disclosed in the application as originally filed. Applicant respectfully submits that the amendment language also mirrors the previously pending dependent claims of the application, and as such, does not require an additional search or examination. Among other things in that regard, Applicant sets forth below a chart detailing some of the locations in Applicant's original-filed specification where support can be found for each new dependent claim. Applicant respectfully submits that this list is not intended to be an exhaustive list and that support in the original-filed specification can be found in at least the places cited below, among others.

New dependent claim no(s).	Dependent claim language	Support in Original-filed Specification
38, 54, 62, 63, 64, 65, 67, 68	said collected information is used to prepare medical record documentation	Figure 4(f) Figure 4a6 Figure 4(b)
39, 55, 69, 70	said medical record documentation can be modified according to personal preferences for documentation	Pg. 13, l. 1-3 Pg. 16, l. 19 to Pg. 17, l. 8 Pg. 28, l. 4 to Pg. 29, l. 2 Figure 3
40, 41, 71, 72, 73, 74	at least some of said collected information is provided by said patient and/or any person on behalf of said patient	Pg. 15, l. 1-7 Pg. 26, l. 18-21
42, 61, 88	said collected information is stored using said database and/or data table	Pg. 11, l. 14-17; Pg. 31, l. 7-16; Original claim no. 165
43, 77, 78	at least some of said collected information is accessible to a user before said user reviews information regarding, sees, or examines said patient	Pg. 15, l. 1-9 Pg. 18, l. 3-6 Pg. 26, l. 19-21 Pg. 30, l. 16 to Pg. 37
44, 57, 90	an adding means, wherein said user can add free text to said collected information, said free text entered by said user by means comprising voice dictation, voice recognition software, handwriting recognition software and/or direct keyed entry	Pg. 12, l. 4-19; Original claim no. 167
45, 91, 93	said prompting is customizable to accommodate needs of specific medical practices, medical encounters, or users	Pg. 13, l. 1-3; Pg. 17, l. 4-8; Pg. 26, l. 1-6; Pg. 28, l. 4-9; Pg. 33, l. 8-10; Original claim nos. 168 and 170
46, 92	said prompting is modifiable to accommodate changes in payer mandates and/or clinical practice	Pg. 13, l. 1-3; Pg. 17, l. 4-8; Pg. 26, l. 1-6; Pg. 28, l. 4-9; Pg. 33, l. 8-10; Original claim no. 169
47, 59, 60, 80	said electronic derivation of an appropriate billing code is customizable to accommodate the needs of medical practices, medical encounters, users, and/or specific billing requirements	Pg. 26, l. 1-6
48, 49, 50, 51, 52, 53	said resultant code is based on said algorithm	Pg. 13, l. 17-21 Pg. 14, l. 1-10 Figures 2 and 4(b)
56	said data forms comprise at least one of free text input, check box, drop down list, radio button, button, and/or selection list	Pg. 2, l. 11-16 Pg. 36, l. 1-10 Figures 5(a) – (i)
66	said billing code is derived based on rules set forth in the Documentation Guidelines for Evaluation and Management Services of the Health Care Financing Administration (HCFA), now called Centers for Medicare & Medicaid Services (CMS)	Pg. 4, l. 6-9; Original claim no. 163
75, 76	said data regarding said patient encounter is stored using said data storage means	Pg. 11, l. 14-17; Pg. 31, l. 7-16 Pg. 31, l. 11-16
79	said inputting means is customizable according to the preferences of specific medical practices, users, and/or specific billing requirements	Pg. 13, l. 1-3; Pg. 17, l. 4-8; Pg. 26, l. 1-6; Pg. 28, l. 4-9; Pg. 33, l. 8-10
81, 82	a populating means, wherein said user can enter data into one said individual data element and automatically populate more than one said individual data element regarding said patient encounter	Pg. 35, l. 17 to Pg. 36, l. 4 Figure 5

New dependent claim no(s).	Dependent claim language	Support in Original-filed Specification
83	said patient encounter data includes patient counseling information and patient care information	Pg. 9, l. 10-11 Pg. 10, l. 20-21; Original claim nos. 139, 154 & 172
84	means for facilitating use of said patient encounter data for clinical care, prescriptions, counseling materials, educational materials, correspondence, quality assurance, billing, research, historical tracking and/or analyzing	Pg. 10, l. 20 to Pg. 11, l. 2 Pg. 17, l. 2-8 Figure 4(a) Original claim nos. 154 & 161
85	said step of accessing said data including preparing communications regarding results of said patient encounter and said calculating means, said communications including documentation regarding what was found or what occurred during said evaluation, documentation sufficient to support said billing code, and/or communications to other health care providers.	Pg 9, l. 7-11; Pg 16, l. 14 to Pg 17, l.8; Original claim no. 160
86	said step of accessing said data including using said information in connection with clinical research, quality control, patient care data base information, clinical notes, clinical counseling notes, and/or correspondence	Original claim nos. 154, 161, 173
87	said calculating step including using a timer to track total time of patient encounter and total counseling time during said patient encounter, and using an algorithm to compare said total time of said patient encounter and said total counseling time during said patient encounter, and determining whether said billing code should be based upon said comparison	Pg. 17, l. 9-12; Pg. 27, l. 21 to Pg. 28, l. 3; Original claim no. 162
89	modifying said data base or data table as needed	Pg. 31, l. 11-16; Original claim no. 166
94	said step of accessing said data being customizable according to needs of said medical encounter or of said user	Pg. 28, l. 4 to Pg. 29, l. 2 Figure 3
95, 96, 97, 98, 99	said examination comprises portions of the body within 7 body areas and/or 12 organ systems	Figure 1a
100, 101, 102, 103, 104	said collected information includes a history which includes at least one of the following elements: location, quality, severity, duration, timing, context, modifying factors, and associated signs and symptoms	Figure 1b
105, 106, 107, 108, 109	said history is considered brief when it includes information relevant to one to three of the following elements of the present illness: location, quality, severity, duration, timing, context, modifying factors, and associated signs and symptoms.	Figure 1b
110, 111, 112, 113, 114	said history is considered extended when it includes information relevant to four or more of the following elements of the present illness: location, quality, severity, duration, timing, context, modifying factors, and associated signs and symptoms.	Figure 1b
115, 116, 117, 118, 119	said history includes a review of systems, said review of systems comprising information regarding one or more of the following systems: Constitutional, Eyes, Ears\Nose\Mouth\Throat, Cardiovascular, Respiratory, Gastrointestinal, Genitourinary, Musculoskeletal, Integumentary, Neurologic, Psychiatric, Endocrine, Hematologic\Lymphatic, and/or Allergic\Immunologic	Figure 1c, page 22

New dependent claim no(s).	Dependent claim language	Support in Original-filed Specification
120, 121, 122, 123, 124	said history includes a review of systems, said review of systems is considered problem pertinent when said review is selected from the following systems: Constitutional, Eyes, Ears\Nose\Mouth\Throat, Cardiovascular, Respiratory, Gastrointestinal, Genitourinary, Musculoskeletal, Integumentary, Neurologic, Psychiatric, Endocrine, Hematologic\Lymphatic, and/or Allergic\Immunologic; and wherein said system is the system related to the problem	Figure 1c
125, 126, 127, 128, 129	said history includes a review of systems, said review of systems is considered extended when said review of systems includes information regarding 2-9 systems selected from the following: Constitutional, Eyes, Ears\Nose\Mouth\Throat, Cardiovascular, Respiratory, Gastrointestinal, Genitourinary, Musculoskeletal, Integumentary, Neurologic, Psychiatric, Endocrine, Hematologic\Lymphatic, and/orAllergic\Immunologic, and wherein said 2-9 systems include the system directly related to the problem	Figure 1c
130, 131, 132, 133, 134	said history includes a review of systems, said review of systems is considered complete when said review of systems includes information regarding at least 10 systems selected from the following: Constitutional, Eyes, Ears\Nose\Mouth\Throat, Cardiovascular, Respiratory, Gastrointestinal, Genitourinary, Musculoskeletal, Integumentary, Neurologic, Psychiatric, Endocrine, Hematologic\Lymphatic, and/or Allergic\Immunologic; and wherein said at least 10 systems include information regarding the system directly related to the problem	Figure 1c
135, 136, 137, 138, 139	said history includes information pertinent to past, family, and/or social history; and wherein said past, family and/or social history is considered complete when information pertinent to at least two of three areas of said past, family and/or social history are included and the patient is an established outpatient, established domiciliary patient, established home care patient, or emergency department patient	Figure 1d
140, 141, 142, 143, 144	said history includes information pertinent to past, family, and/or social history; and wherein said past, family and/or social history is considered complete when information pertinent to three of three areas of said past, family and/or social history are included and the patient is a new outpatient, new inpatient, new domiciliary patient, new home care patient, comprehensive nursing facility assessment patient, hospital observation patient, or consult patient	Figure 1d
145, 146, 147, 148	said assessment and/or said decision is based at least in part on a Table of Risk, said Table of Risk being made available by The Health Care Financing Administration (HCFA) a branch of the United States Department of Health and Human Services, and now called Centers for Medicare and Medicaid Services (CMS) in 1995 Documentation Guidelines For Evaluation & Management Services or 1997 Documentation Guidelines For Evaluation & Management Services	Figure 1j

New dependent claim no(s).	Dependent claim language	Support in Original-filed Specification
149, 150, 151, 152, 153	said billing code is derived based on rules set forth in the 1997 Documentation Guidelines for Evaluation and Management Services of the Health Care Financing Administration (HCFA), now called Centers for Medicare & Medicaid Services (CMS)	Figures 1a-1k, 2, 4c

In addition, Applicant has added dependent claims 145-153 which are directed to the 1995 and/or 1997 Documentation Guidelines For Evaluation & Management Services. One skilled in the art would recognize figure 1a as relating to the 1995 Guidelines and figures 1b, 1c, 1d, and 1j of the original specification as relating to the 1995 and 1997 Guidelines, even though those guidelines are not specifically called out in the specification. If the Examiner requires amendment of the specification in that regard, Applicant will be glad to cooperate regarding same.

Further regarding the amendments to Claims 7, 9, 10, 11, 19, 22, 23 and 24, Applicant respectfully submits that these amendments are presented merely to correct informalities and do not change the scope of the claims. Applicant has amended Claim 7, 22 and 23 to include the limitation "and/or" in place of "or" in the claims. Applicant respectfully submits that this limitation was inadvertently omitted from line 7 of Claim 7, lines 2 and 15 of Claim 22, and lines 2 and 17 of Claim 23. The "and/or" limitation is clearly used throughout Claim 7, Claim 22 and Claim 23, thus it is clear that it is was Applicant's intention for the "or" limitation in these claims to read "and/or". Regarding Claims 9, 10, 11, 19 and 24, Applicant respectfully submits that the amendments to those claims presented herein are merely to correct informal and/or grammatical errors in the claims, and as such do not affect the scope of such claims.

Furthermore, Applicant would like to confirm for the record that the limitation "using said electronic computer or said scannable form to electronically derive an appropriate

HCFA/CMS billing code from said collected information" in lines 11-12 of Claim 1 should be interpreted to at least include/cover (but is not limited to) the disclosure in Applicant's originally-filed specification at page 15, lines 18-20: "the calculation of billing level could take place on a portable device, if this is used. It also could take place on a desktop computer or network server after the information is uploaded from the portable device." In other words, Applicant respectfully submits that the step of deriving the billing code may be carried out by any device capable of deriving the appropriate billing code from the collected information.

Accordingly, Applicant respectfully submits that all of the pending claims are now in condition for allowance.

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If the Examiner would like to discuss any remaining or new issues regarding this communication, the Examiner is invited to contact the undersigned representative of Applicant at (949) 718-6750.

Respectfully submitted,

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